

## **REMARKS**

The Applicant notes the interview between Applicant's undersigned counsel and the examiner conducted on March 21, 2006 and confirms the completeness and accuracy of the Interview Summary prepared by the examiner, a copy of which is attached hereto, and requests that the attached Interview Summary constitute the record of the substance of said interview. The Applicant has amended Claims 1, 3 and 7 which, together with claims 2, 5 and 6, remain in the application. The Applicant notes the examiner's response to Applicant's arguments filed September 16, 2005 indicating that the claims did not specifically state that an "intermediary in place of the ultimate purchaser" is used in the indirect sales channel of the system. The claims as amended now refer to "at least one sales channel for said buyers to purchase goods/services interacting directly with said sellers and at least one sales channel for said buyers to purchase goods/services via an intermediary without direct interaction with said sellers via an intermediary that acquires said goods/services from said sellers and resells same to said buyers." The support for the amendments to the claims is found in the Specification at paragraph numbers [0020] and [0029] in the application as published. A copy of the application as published is attached with the noted portions highlighted, which note that "the buyer can choose to buy direct, in an unbiased, non-anonymous, and vendor neutral model for negotiating the best price possible from the vendor of their choice. Conversely, the buyer can choose to place the order through a brokerage service for example . . ." Paragraph [0010], third sentence, further discusses what is meant by the indirect sales channel, as being one in which a party other than the buyer sources and/or purchases the goods/services from the seller and resells them to the buyer.

The Applicant notes the examiner's rejection of Claims 1-3 and 5-7 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,643,624 ("Philippe") and respectfully requests reconsideration and withdrawal of said rejection in light of the amendments to the claims and the following discussion.

The Applicant respectfully submits that Claims 1-3 and 5-7, as amended, are not unpatentable under 35 U.S.C. 103 (a) over the patent cited. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and *not* based on the Applicants' disclosure. MPEP § 2143. "In determining differences between the prior art and the claims, the question under 35 U.S.C. § 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious." MPEP § 2141.02 (emphasis in original) (citing *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983); *Schenck v. Norton Corp.*, 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983)).

The Applicant respectfully submits that Philippe (US 6,643,624) teaches a method for effecting transactions with multiple vendors in which the system performs for the user the various different order processing requirements required for each vendor. However, in Philippe the buyer/system user is always identified as the purchaser and the buyer and

various vendors are the parties in privity with each other for the transaction. The Philippe system merely processes the buyer's multiple orders through the vendors' multiple ordering protocols. Philippe does not teach or suggest the use of an indirect sales channel, via an intermediary in place of the ultimate buyer as the party with whom the vendors interact, without direct interaction between the buyer and the sellers, as an option to engaging in direct transactions between the ultimate purchaser and the sellers. A virtual checkout counter such as in Philippe that processes all of the transactions between the purchaser directly and each of the vendors is not the same as a system that allows the purchaser to select, for each purchase transaction, between ordering directly from the sellers or having the purchase made in an indirect manner via an intermediary that acquires the goods/services from the sellers and resells them to the ultimate buyer without direct interaction between buyer and seller as with the present invention. In Philippe the purchaser does not have the ability to remain anonymous and to keep confidential the fact that the purchaser is making purchases from multiple vendors. This feature allows the buyer to actually compare terms offered to it directly with terms when an intermediary is used, as well as the option to purchase though an intermediary, which the buyer may be more comfortable in dealing with than an unknown seller possibly in a far off country, for example. There is no suggestion of this capability in Philippe. For these reasons, claims 1-3 and 5-7, as amended, are not unpatentable over the Dilger article in view of Philippe. The Applicant therefore respectfully requests that examiner withdraw the rejections of the Applicant's claims.

The Applicant respectfully submits that the application and claims, as amended, are in condition for allowance. Nonetheless, should the examiner still have any

comments, questions or suggestions, the examiner is respectfully requested to telephone the undersigned at the telephone number listed below.

Respectfully submitted,

Date: April 14, 2006

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APPLICATION NO.	FILED DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,751	12/30/2000	Alan Rudnick	38021.010000	9595

54353 7590 03/24/2006  
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EXAMINER	
GRAYSAY, TAMARA L	
ART UNIT	PAPER NUMBER

3636

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



## Interview Summary

Application No.	09/752,751	Applicant(s)	RUDNICK, ALAN
Examiner	Tamara L. Graysay	Art Unit	3636

All participants (applicant, applicant's representative, PTO personnel):

- (1) Manuel Valcacer, Reg. No. 41,360. (3) \_\_\_\_\_.  
(2) Tamara L. Graysay. (4) \_\_\_\_\_.

Date of Interview: 21 March 2006.

Type: a) Telephonic b) Video Conference

c) Personal [copy given to: 1) applicant 2) applicant's representative]

Exhibit shown or demonstration conducted: d) Yes e) No.  
If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: 1.

Identification of prior art discussed: Phillipe (US-6643624) and Dilger (article, Buying Strategies).

Agreement with respect to the claims f) was reached. g) was not reached. h) N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an attachment to a signed Office action.

\_\_\_\_\_  
Examiner's signature, if required

## Summary of Record of Interview Requirements

### **Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record**

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### **Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews Paragraph (b)**

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### • 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

### **Examiner to Check for Accuracy**

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

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Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments:

Applicant is considering filing an amendment at least to claim 1 that further defines the purchase feature of the invention, for example, purchase by a buyer from a single point of sale where the buyer may directly deal with a seller or indirectly deal with a seller through an intermediary such that the buyer or seller have anonymity. No agreement was reached as to adequate support in the original disclosure for this feature. However, applicant will mention the relevant portions of the disclosure (specification and drawings) that provide basis for any newly claimed features in support of any amendment(s) to the claims.

No agreement was reached as to specific claim scope or claim language.

Any amendment to the claims would be reviewed upon formal filing and in light of the after final status of the application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamara L. Graysay whose telephone number is 571-272-6728. The examiner can normally be reached on Mon - Fri from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Cuomo, can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tamara L. Graysay  
Examiner  
Art Unit 3636

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